



John Du Wors
Direct +206.274.2834
Main +206.274.2800
john@newmanlaw.com

2101 Fourth Avenue, Suite 1500
Seattle, WA 98121

SENT BY CM/ECF

June 9, 2017

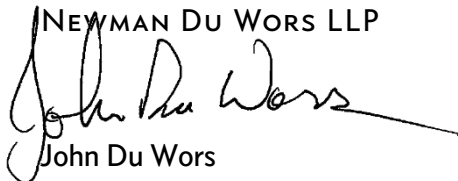
Office of the Clerk
James R. Browning Courthouse
United States Court of Appeals
PO Box 193939
San Francisco, CA 94119

**Re: New Show Studios, LLC v. Greg Howe, et al.
United States Court of Appeals for the Ninth Circuit, Case No. 16-56906**

Ms. Dwyer:

On June 6, 2017, Appellant Greg Howe filed a letter with this Court asserting that he was charged a shipping fee for delivery of Respondents Davison Design and Development, Inc. and Anthony Valkanas' Answering Brief. After investigating this matter, we determined that The Lex Group, the company my law firm used to bind and ship Respondent's briefs and exhibits, inadvertently caused Mr. Howe to be charged for shipping. The Lex Group has now refunded Mr. Howe the full amount of his payment. Attached hereto is my paralegal's communications with The Lex Group, the letter sent from The Lex Group to Mr. Howe refunding his payment, and a copy of the check provided to Mr. Howe by The Lex Group.

Very Truly Yours,

NEWMAN DU WORS LLP

John Du Wors

cc: Greg Howe (by US Mail)

Enc.

Enclosure

Chy Eaton

From: Kelly Reese <kar@thelexgroup.com>
Sent: Wednesday, June 07, 2017 11:04 AM
To: Chy Eaton
Cc: Samantha Everett
Subject: RE: Davison/Howe: Bound brief delivered C.O.D.

Chy,

I apologize. Upon receipt of your email, I went back and reviewed our UPS records for the shipments containing the bound copies of the Respondents' Answering Brief and Excerpts of Record. It appears I made a mistake while printing the shipping label for the package to Mr. Howe. It was my understanding that UPS would charge the duties and taxes to the shipper, not the recipient. Obviously, that is not what happened.

We have mailed a reimbursement check to Mr. Howe, along with a letter of explanation.

I am very sorry for any problems my error may have caused. Please let me know if further steps are needed to resolve the issue.

Sincerely,

Kelly A. Reese
Appellate Consultant
THE LEX GROUP VA
1108 East Main Street, Suite 1400
Post Office Box 1111 (23218)
Richmond, Virginia 23219
(804) 644-4419 (Telephone)
(800) 856-4419 (Toll-free)
(804) 644-3660 (Facsimile)
kar@thelexgroup.com

THE LEX GROUP DC
1825 K Street, NW, Suite 103
Washington, DC 20006
(202) 955-0001 (Telephone)
(800) 856-4419 (Toll-free)

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* Briefs received after 10:00 a.m. EST are subject to a rush charge.
Overtime fees will be applied hourly for all filings that result in our staff working past 5:00 p.m. EST.

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From: Chy Eaton [mailto:chy@newmanlaw.com]
Sent: Tuesday, June 06, 2017 6:32 PM
To: Kelly Reese <kar@thelexgroup.com>
Cc: Samantha Everett <samantha@newmanlaw.com>
Subject: Davison/Howe: Bound brief delivered C.O.D.
Importance: High

Kelly,

The attached was filed regarding the delivery of the bound versions of our brief. Although Howe included the original certificate of service for the unbound copies, the UPS slip indicates this was sent from Lex Group (and therefore the bound copies) and required Howe pay \$35.76 for delivery of these materials.

Why were these sent COD? Postage should have been paid and invoiced to us. My firm will need to provide an explanation to the court on this issue. I'll contact you Wednesday morning to discuss further.

Respectfully,

**Newman
+ DuWors**

Chy Eaton, *Paralegal*
2101 Fourth Avenue, Suite 1500
Seattle, WA 98121
Main: (206) 274-2800
Direct: (415) 944-5425
chy@newmanlaw.com
www.newmanlaw.com

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THE LEX GROUP

www.thelexgroup.com

THE LEX GROUP^{DC}
1825 K Street, NW
Suite 103
Washington, DC 20006
Phone 202.955.0001
Fax 202.955.0022
filingsdc@thelexgroup.com

June 7, 2017

THE LEX GROUP^{VA}
1108 East Main Street
Suite 1400
Richmond, VA 23219
Phone 804.644.4419
Fax 804.644.3660
filings@thelexgroup.com

Greg Howe
3 Carncastle Gate
St. Catharines, ON L2N 5V4
Canada

Re: *Davison Design and Development, Inc., et al. v. Howe*, No. 16-56906

Mr. Howe:

It has come to my attention that you were charged for duties and taxes associated with the bound copies of the Respondents' Answering Brief and Excerpts of Record that were shipped to you last month by The LEX Group. I am truly sorry. The charge was due to a mistake I made while printing the shipping label. It was my understanding that UPS would charge the fees to the shipper, not the recipient.

I wish to convey my sincere apologies for any inconvenience you experienced as a result of my error. Enclosed, please find a reimbursement check in the amount of \$35.76.

Sincerely,



Kelly A. Reese

Enclosure

cc: John Du Wors, Esquire

THE LEX GROUP VA INC PO BOX 1111 RICHMOND VA 23218-1111		10-03	8388
PAY TO THE ORDER OF <u>Greg Howe</u>		Bank of America ACH R/T 051000017	68-1/510 VA 615
Thirty-Five and 76/100*****		6/7/2017	
MEMO		\$ **35.76	
Reimb. for UPS Charges, 16-56906		DOLLARS	
Greg Howe 3 Carmcastle Gate St. Catharines, ON L2N 5V4 Canada		AUTHORIZED SIGNATURE <i>Lisa J. Jell</i>	
Reimb. for UPS Charges, 16-56906		Security Features Included	
MEMO		Details on Back.	

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CERTIFICATE OF SERVICE

Case No. 16-56906

I certify under Circuit Rule 25-5(f) that I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system on June 9, 2017.

I certify that I served an unbound copy by personally delivering to Howe by depositing it for delivery by US Mail in a sealed envelope with postage thereon fully prepaid to the following:

Greg Howe
3 Carncastle Gate
St. Catharines, ON L2N 5V4
Canada

DATED this 9th day of June, 2017.

NEWMAN DU WORS LLP

By: s/ John Du Wors
John Du Wors
Newman Du Wors LLP
2101 Fourth Avenue, Suite 1500
Seattle, Washington 98121
Telephone: (206) 274-2800
Facsimile: (206) 274-2801
Attorneys for Respondent
Davison Design and Development and
Anthony Valkanas